

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32087
Docket No. CL-31975
97-3-94-3-332**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)**

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11052) that:

- 1. The Carrier acted in an arbitrary, capricious and unjust manner and in violation of Rule 24 of the Agreement when, by notice of March 6, 1992, it assessed discipline of five days suspension, held in abeyance for six months against Reservation Sales Agent, Ms. Essie King.**
- 2. The Carrier shall, if she is ever required to serve the suspension, be immediately required to reinstate Claimant to service with seniority rights unimpaired and compensate her an amount equal to what she could have earned, including but not limited to daily wages, overtime and holiday pay, had discipline not been assessed.**
- 3. The Carrier shall now expunge the charges and discipline from Claimant's record."**

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The Claimant, a Reservation Sales Agent, was subject to an Investigative Hearing under the following specification:

"In that while on duty October 21, 1992 during the approximate time frame of 9:15 a.m. through 12:15 p.m., you were observed by Supervisor William Pedroza not attending to your duties of handling calls as a reservation sales agent for a total of thirty-seven (37) minutes, which represents unmanned time of twenty-four (24) percent."

The Organization provides unconvincing arguments as to the Carrier's allegedly imprecise application of productivity standards; alleged unspecified disparity of treatment; and the fact that the Claimant was counseled on the day in question and then made subject to a Hearing and subsequent penalty.

The penalty in question was a five-day suspension, to be held in abeyance of six months. With the Carrier convinced as to the Claimant's inattention to her assigned position during the period of observation, a review of the Claimant's record is appropriate in assessing degree of discipline. Remarkably, the Claimant had been subject to 18 verbal or formal counselings over a three-year period, most of them for "low productivity." In addition, the Claimant was subject to a ten-day suspension (five days deferred) in reference to call handling.

The Board finds no basis to disturb the Carrier's assessment that discipline was warranted, following the Claimant's failure to perform satisfactorily after an astonishing number of counselings.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 9th day of July 1997.